

Original

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

JAMAL ELHAJ-CHEHADE,  
Plaintiff,

v.

EDUCATIONAL COMMISSION FOR  
FOREIGN MEDICAL GRADUATES,  
Defendant.

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CIVIL ACTION NO.

3:01-CV-1301-L

CLERK, U.S. DISTRICT COURT

By

Deputy

OCT 22 2001

**DEFENDANT'S RESPONSE TO  
PLAINTIFF'S MOTION TO ANSWER OUT OF TIME TO THE DEFENDANTS  
STATUS FILING AND RESPONSE TO MOTION TO EXTRICATE AS FOLLOW**

Defendant Educational Commission for Foreign Medical Graduates ("ECFMG") respectfully submits this, its Response to Plaintiff's Motion to Answer Out Of Time To The Defendants Status Filing And Response To Motion To Extricate As Follow ("Motion"), and in support thereof, states as follows:

**I.  
EVIDENCE IN SUPPORT OF MOTION**

In support of its Motion, ECFMG incorporates and adopt by reference as if fully stated herein the following evidence:

- A. Plaintiff's complaint ("Complaint"), attached hereto as Exhibit "A"
- B. Plaintiff's motion to answer out of time to the defendants status filing and response to motion to extricate as follow ("motion to answer out of time"), attached hereto as Exhibit "B"

**II.  
SUMMARY OF ARGUMENT**

Chehade's Motion is very unclear as to the relief sought. To the best of its ability, ECFMG believes that Plaintiff is requesting the following: (1) dismissal of his state law claims,

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(2) permission to file a status report, and (3) production of numerous documents. Plaintiff is not entitled to any of the aforementioned forms of relief.

### **III. ARGUMENTS AND AUTHORITIES**

#### **A. Plaintiff wishes to dismiss his state law claims**

Plaintiff wishes to dismiss his state law claims. Specifically, in his motion to answer out of time, Plaintiff states that he wishes to extricate "the non federal claims...not directly connected to the federal claims". (See Exhibit "B", 2) Plaintiff asserts the following claims in his complaint:

- (1) ECFMG...violate the Tax laws + fraud + violation of the non profit status including 501(c)(3) + contract + corruption
- (2) Illegal seizure and retention of the plaintiff property, denial access to use contract
- (3) Emotional Distress + Alienation
- (4) Double Jeopardy
- (5) Public Nuisance
- (6) Interference with the plaintiff right of work

(See Exhibit "A", 1-6)

Except for Plaintiff's challenge to the tax status of ECFMG, Plaintiff's asserts state law claims, exclusively. ECFMG has no objection to Plaintiff voluntarily dismissing his state law claims.

Upon dismissal of Plaintiff's state law claims, Plaintiff's only remaining claim will be his challenge to the tax status of ECFMG. Accordingly, ECFMG requests that this Court enter an Order dismissing Plaintiff's state law claims, as requested by Plaintiff.

#### **B. Plaintiff apparently demands that he be allowed to submit a status report**

Plaintiff apparently demands that he be allowed to submit a status report. Specifically, Plaintiff states: "The defendants status report is misleading in all of it to the court and the

plaintiff is demanding that the court must allow the plaintiff to present the evidences under FRCP and other wise and in the presence of the defendants." (*See* Exhibit "B", 7)

A status report was due on September 12, 2001, 14 days after the date of the aforementioned conference. (*See* III.B., above; Fed. R. Civ. P. Rule 26(a)(1)) Accordingly, Plaintiff's request to submit a status report at this time is untimely and inappropriate, and should be denied.

**C. Plaintiff requests that ECFMG produce various documents**

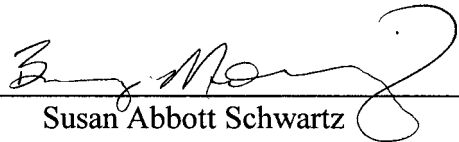
Plaintiff requests that ECFMG produce various documents. Among other items, Plaintiff specifically requests the following: (i) income tax returns, (ii) financial and investment records, (iii) information booklets, (iv) bulletins, (v) applications to the government and IRS, (vi) annual reports, and (vii) court documents. (*See* Exhibit B, 18) Plaintiff requests these documents for several time periods ranging from 1983 to the present. *Id.*

ECFMG objects to Plaintiff's request for documents. First, Plaintiff has alleged no facts in his Complaint. Second, Plaintiff has alleged no damages in his Complaint. Due to the absence of such critical information, it is impossible to determine which documents are relevant or reasonably calculated to lead to the discovery of admissible evidence. ECFMG further objects to Plaintiff's requests on the basis that they are vague, ambiguous, overbroad, and are not limited to a reasonable time or scope. Additionally, Plaintiff has not served discovery on ECFMG and Plaintiff's incorporation of his discovery requests into his current motion is improper. As a result, ECFMG respectfully requests that the Court deny Plaintiff's request for production of documents.

**IV.**  
**PRAYER**

WHEREFORE, premises considered, Educational Commission for Foreign Medical Graduates requests that this Honorable Court dismiss Chehade's claims, and order such other and further relief to which ECFMG may show itself to be justly entitled.

Respectfully submitted,

By:   
Susan Abbott Schwartz  
State Bar No. 00797900  
Barry A. Moscovitz  
State Bar No. 24004830

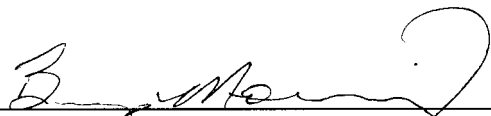
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ATTORNEYS FOR DEFENDANT  
EDUCATIONAL COMMISSION FOR  
FOREIGN MEDICAL GRADUATES

**CERTIFICATE OF SERVICE**

The undersigned certifies that on this 18<sup>th</sup> day of October, 2001, a true and correct copy of the above and foregoing document was served upon the following party appearing *in forma pauperis* of record via certified mail, return receipt requested:

Jamal Elhaj-Chehade  
5414 Cedar Springs, #806  
Dallas, Texas 75235

  
Barry A. Moscovitz

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